IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6100 OF 2004

Shri Shivaji Tukaram Patil .. Petitioner

Versus

The Collector, Kolhapur Dist, Kolhapur .. Respondents

Mr.P.D.Dalvi for the petitioner

Mr.P.M.Patil, A.G.P. for respondent no.1 to 3

CORAM: A.P.SHAH & S.U.KAMDAR, JJ

DATED: 31ST AUGUST, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. By the present petition, the petitioner is challenging the order dated 2nd September 2003 passed by the District Collector, Kolhapur under which the petitioner has been sought to be shifted from their original land allotted as and by way of 'project affected' persons under the rehabilitation scheme. Some of the material facts in the present case briefly stated are as under:

2. The petitioner is an Agriculturist and is a 'Project Affected' Person. The land of the petitioner has been acquired under what is known as Doodhganga Project. The said land was acquired for the purpose of construction of land across the river in Kolhapur District. The respondent no.2 has announced a scheme for rehabilitation of 'Project Affected Persons' of Doodhganga Project.

3. It is the case of the petitioner that pursuant thereto on 11th March 2001 the Collector, Kolhapur allotted a land in Revisional Survey No.425/2 of an area of 1 H. 60 ares of Village Kagal, District Kolhapur. On 17th April 2003, the possession of the said land was handed over by the Collector and has Kabjepatti Panchnama has been executed in respect thereto. It is the case of the petitioner that without giving any opportunity of hearing and without any notice whatsoever the Collector has passed the impugned order dated 2nd September 2003 inter alia seeking to remove the petitioner from the land allotted and is sought to be shifted to

the plot which is 8 kms. away from the current resident colony. It is this order dated 2nd September 2003 which is under challenge in the present petition.

4. We have heard the parties. The learned counsel appearing for the State Government has inter alia contended that the land which has been allotted to the petitioner is infact been reserved for some other purpose and did not form a part of the Government Pools and therefore it has become necessary to allot another piece of land to the petitioner instead of land originally allotted to him.

5. We are not inclined to go into the merits of the case. Suffice it to say that even if it is so the respondent no.1 and 2 could not have passed the order of 2nd September 2003 to give an opportunity of personal hearing to the petitioner herein. Accordingly on the short ground we set aside the said order dated 2nd September 2003 and remand the matter back to the District Central Kolhapur for

giving an opportunity to the petitioner of hearing and after hearing the petitioner may pass an appropriate order in that behalf.

6. We dispose of the petition accordingly. However, there shall be no order as to costs.

Parties to act on a copy of this order duly authenticated by the Court Stenographer.